

Message Text

UNCLASSIFIED

PAGE 01 STATE 049826

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

UNCLAS STATE 049826

E.O. 11652: N/A

TAGS: PFOR, GW, AFSP

SUBJECT: PRIVILEGES AND IMMUNITIES FOR "RESIDENTS" OF

-- RECEIVING STATE: ASSIGNED EMBASSY STAFF MEMBER

REF: (A) BONN 2720; (B) PFUND-MALMBORG/SHAMWELL LETTER

12/10/74

1. REFS RAISED QUESTIONS RELATING TO FRG POLICY OF CLASSIFYING AS "RESIDENTS" CERTAIN EMBASSY STAFF MEMBERS ON BASIS OF (1) METHOD OF HIRING, EITHER BY ASSIGNMENT OR LOCAL HIRE, (2) PRIOR EMPLOYMENT IN THE FRG OR (3) MARITAL STATUS, I.E., MARRIAGE TO GERMAN NATIONAL. ONCE SUCH CLASSIFICATION HAS BEEN MADE, PRIVILEGES AND IMMUNITIES ARE RESTRICTED IN ACCORDANCE WITH ARTICLE 37 AND 38 OF THE VIENNA DIPLOMATIC RELATIONS CONVENTION OF 1961, WHICH IS IN FORCE BETWEEN THE USG AND THE FRG. EMBASSY REQUESTED STATEMENT OF USG POLICY ON SUCH MATTERS AS WELL AS RESPONSE TO IMPLEMENTATION OF FRG POLICY IN INDIVIDUAL CASE CITED.

2. UNDER USG PRACTICE, PERMANENT RESIDENCE STATUS IS NOT UNCLASSIFIED

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OBTAINED AUTOMATICALLY, BUT RATHER RESULTS FROM THE INDIVI-

DUAL'S PETITION FOR SUCH STATUS; SUCH STATUS IS NOT PRESUMED. THUS, THE USG DOES NOT FOLLOW A PRACTICE SIMILAR TO THAT OF THE FRG WHICH ASSUMES THAT AN INDIVIDUAL WISHES TO BE TREATED AS A PERMANENT RESIDENT AS A CONSEQUENCE OF MARRIAGE TO A GERMAN NATIONAL.

3. WHILE THE DEPARTMENT DOES NOT BELIEVE THAT THE USG HAS THE RIGHT TO CHALLENGE ANOTHER COUNTRY'S CITIZENSHIP LAWS AS THEY AFFECT MATTERS SUCH AS THAT UNDER DISCUSSION, DEPARTMENT DOES NOT OBJECT TO A PROTEST BY THE EMBASSY ON THE APPLICATION OF SUCH LAWS IN INDIVIDUAL CASES (E.G., ON HARDSHIP OR RELATED GROUNDS). SINCE, UNSURPRISINGLY, HISTORY OF VIENNA DIPLOMATIC RELATIONS CONVENTION SHEDS NO LIGHT ON DEFINITION OF "PERMANENT RESIDENT," BASIS FOR PROTEST WOULD BE (1) HARDSHIP AND (2) LACK OF EQUIVALENT USG POLICY RESULTING IN DENIAL OF PRIVILEGES AND IMMUNITIES TO ALIEN PERSONNEL OTHERWISE QUALIFIED. INGERSOLL

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